BEFORE THE ILLINOIS COMMERCE COMMISSION

Docket No. 02-0365

Direct Testimony of Sandra Douglas
On Behalf of Ameritech Illinois

Ameritech Illinois Exhibit 3.0

PUBLIC VERSION

REVISED

July 1, 2002

DIRECT TESTIMONY OF SANDRA DOUGLAS

ON BEHALF OF AMERITECH ILLINOIS

Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?

A. My name is Sandra Douglas and my business address is 1010 Pine, St. Louis, MO 63101.

Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR TITLE?

A. I am employed by SBC-Southwestern Bell Telephone Company ("SWBT") and my title is Area Manager – State Access Issues.

Q. HAVE YOU PREPARED AN EXHIBIT THAT PROVIDES INFORMATION REGARDING YOUR EMPLOYMENT AND EDUCATIONAL BACKGROUND?

A. Yes. My employment history and educational background is provided in Schedule SD-1.

Q. HAVE YOU PREVIOUSLY TESTIFIED ?

A. Yes, I have testified before the Connecticut Department of Public Utility Control's which investigated The Southern New England Telephone Company's Switched Access charges. I have also testified before the Missouri Public Utility Commission in Case No. TO-2001-467, which investigated the competitive standing of SWBT's tariffed services, including Special Access services. In addition, I have testified before the Kansas Corporation Commission in Docket No. 01-GIMT-082-GIT, which investigated SWBT's Switched Access charges.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address Globalcom's position that termination liabilities should not be applied, when Globalcom discontinues Special Access service purchased from SBC- Ameritech ("Ameritech") prior to completion of the term of the Optional Payment Plan ("OPP"). In addition, I will address Globalcom's tariffed rates for Special Access service, of which termination liabilities are a part and are not excessive or unreasonable.

Q. IN WHICH TARIFFS DOES AMERITECH OFFER SPECIAL ACCESS SERVICE?

A. Special Access service is offered in Tariff FCC No. 2 and ILL CC No. 21. Tariff FCC No. 2 contains the rules, regulations and prices if the Special Access service is certified as interstate and ILL CC No.21 contains the rules, regulations and prices if the Special Access circuit is intrastate. ILL CC No. 21 generally mirrors the FCC Tariff.

Q. WHAT IS THE JURISDICTIONAL CERTIFICATION REQUIREMENT?

A. Section 2.3.12(A) of Tariff FCC No. 2 provides that, in accordance with the FCC's Decision and Order in CC Docket Nos. 78-72 and 80-286 (rel. July 20, 1998), "if the customer determines that the interstate traffic on the service involved constitutes more than then percent (10%) of the total traffic on that service, the service will be provided in accordance with the applicable rules and regulations of the Tariff." (Tariff F.C.C. No. 2, Section 2.3.12(A), 1st Rev. page 39.1.1) The tariff places responsibility for determining and certifying the jurisdictional nature of the traffic on the customer at the time the service is ordered: "When a customer orders Special Access or Specialized Network Services from this tariff, the customer shall certify that the Special Access or Specialized Network Service meets the requirements for classification as interstate." (Tariff FCC. No. 2, Section 2.3.12(B), 1st Revised Page 39.1.1) The Company's Illinois intrastate tariff contains a parallel provision requiring a customer ordering service under that tariff to certify that the interstate traffic carried over the requested service constitutes 10% or less of the total traffic on that service. (ILL CC No. 21, Section 2.3.12, Original Sheet No. 39.1.1). Thus, if the customer determines that 10% or less of the traffic to be carried on the Special Access service is interstate in nature then the jurisdiction of the service is intrastate and the customer orders out of the Illinois intrastate tariff, ILL CC No. 21. However, if the customer determines more than 10% of the Special Access service to be carried on the service is interstate then the jurisdiction of the service is interstate and the customer orders out of the interstate tariff, Tariff FCC No. 2.

Q. DOES AMERITECH HAVE AN INCENTIVE TO ENCOURAGE CUSTOMERS TO DESIGNATE THEIR SPECIAL ACCESS SERVICES AS INTERSTATE OR INTRASTATE?

A. No. Since the Special Access rules, regulations and rates in ILL CC No. 21 mirror Tariff FCC No. 2, Ameritech has no incentive to encourage noncompliance with the jurisdictional certification requirement in section 2 of each tariff. Furthermore, since there is no difference in the rates, Ameritech has no financial incentive to steer customers to one jurisdiction or the other.

Q. MR. STARKEY CONTINUALLY REFERS TO SPECIAL ACCESS 'CIRCUITS' PURCHASED BY GLOBALCOM, RATHER THAN SPECIAL ACCESS 'SERVICE'. IS SPECIAL ACCESS SERVICE DIFFERENT FROM SPECIAL ACCESS CIRCUITS?

A. No, there is no difference between Special Access service and Special Access circuits. The tariff uses circuit, as well as path and channel, throughout the Special Access services section of both the interstate and intrastate tariffs. These terms are used throughout the industry to describe Special Access service.

Q. ON PAGE 18, LINE 406 OF HIS TESTIMONY, MR. STARKEY REFERS TO AMERITECH'S "RETAIL, SPECIAL ACCESS RATES". IS SPECIAL ACCESS SERVICE A RETAIL SERVICE?

A. No, it is not accurate to describe Special Access service as a retail service. Ameritech's Special Access service is sold to enable a carrier to connect an end user's dedicated network that crosses Local Access and Transport Areas ("LATAs") or to enable an end user to complete its own dedicated network that crosses LATA boundaries.

Q. YOU JUST MENTIONED END USERS. DO END USERS PURCHASE SPECIAL ACCESS SERVICE?

A. Yes. In fact, anyone may purchase Special Access service from Ameritech in accordance with the rules and regulations of the associated tariff.

Q. IN THEIR TESTIMONY BOTH MR. STARKEY AND MR. WINCE STATE GLOBALCOM SHOULD NOT PAY TERMINATION LIABILITIES IF THEY WISH TO COVERT THEIR EXISTING SPECIAL ACCESS SERVICES TO EELS. WHAT IS A TERMINATION LIABILITY?

A. It is a charge Ameritech assesses a customer that chooses to terminate Special Access service purchased under an OPP prior to the end date of the agreement. An OPP is a billing option. Ameritech commits to charge the customer no more than the rate the customer agreed to when purchasing the OPP service in return for the customer's commitment to purchase the service for the period of time stated in the OPP.

Q. ON PAGE 3, LINE 66 OF HIS TESTIMONY, MR. STARKEY REFERS TO THE TERMINATION LIABILITY AS A PENALTY. IS THAT AN ACCURATE ASSESSMENT?

A. No, it is not. The termination liability is nothing more than a charge for early termination of an agreement that benefits both parties The charge associated with terminating a Special Access OPP prior to the end date simply assesses the customer charges it would have paid had it chosen a shorter period OPP. Furthermore, the customer has benefited by having retained the funds for other uses and is not assessed interest on monies it should have rightfully paid Ameritech in the first place.

Q. ARE OPPs AND CHARGES FOR EARLY TERMINATION OF AN OPP NEW TO SPECIAL ACCESS?

A. No, both were introduced for Special Access DS1 in 1987[1].

Q. WHAT INCENTIVES DO CUSTOMERS HAVE FOR AGREEING TO PURCHASE SPECIAL ACCESS SERVICE UNDER AN OPP?

A. The major incentive is lower rates. Ameritech commits not to increase the customer's rates to an amount higher than the OPP rate which was in effect when the customer agreed to the OPP option. This enables the customer to identify the maximum cost for which to budget during the life of the OPP, which is referred to

[1] Ameritech Transmittal No. 119, filed August 14, 1987, effective September 28, 1987.

as rate stabilization. In addition to Ameritech's rate stability commitment, the customer receives a substantially cheaper rate than would have been obtained had the customer purchased on a month-to-month basis or a OPP Plan term of lesser duration and the customer benefits from any rate decreases.

Q. IF OPP RATES ARE LESS THAN MONTHLY RATES, DO THE OPP RATES FLUCTUATE BASED ON THE TERM OF THE OPP AGREEMENT?

A. Yes. The longer the OPP agreement, the greater the discount.

Q. CAN YOU PROVIDE AN EXAMPLE?

A. Yes. The DS1 Local Distribution Channel ("LDC") lists a current monthly rate of $255. The monthly rate for a 12-month OPP is $196 or 77% of the monthly rate. The monthly rate for a 24-month OPP is $152 or 60% of the monthly rate. The monthly rate for a 36/48-month OPP is $103 or 40% of the monthly rate. The monthly rate for a 60-month OPP is $93, which is 37% of the monthly rate. Each of these rates is listed in Tariff FCC No. 2 on the current effective tariff page, 34th Revised Page 411.

Q. ARE ALL OPP RATES DISCOUNTED IN A SIMILAR MANNER?

A. All of the rates are discounted but not necessarily at the same percentage. For example, the 12-month, 24-month, 36/48-month and 60-month DS1 Fixed OPP rate is 80%, 69%, 39% and 25%, respectively, of the fixed monthly rate. However, the 12-month, 24-month, 36/48-month and 60-month DS1 per mile monthly rate is 90%, 81%, 56% and 48%, respectively, of the per mile monthly rate. Although the percent reduction is not identical for all rate elements, the longer the OPP, the more substantial the discount relative to the month-to-month rate.

Q. WOULD IT BE ACCURATE TO STATE AN OPP IS AN AGREEMENT BETWEEN A CUSTOMER AND AMERITECH FOR A SPECIFIC SERVICE FOR A SPECIFIC PERIOD OF TIME?

A. Absolutely and the terms of this agreement are stated in the tariff.

Q. AND THIS IS AN ACCEPTED MANNER FOR DOING BUSINESS?

A. Yes. All of SBC's local exchange companies have OPPs and charges for early termination of OPP services. In addition, Verizon, including pre-merger GTE, Sprint Local Telephone Company and CLECs have similar rules, regulations and charges.

Q. CAN YOU PROVIDE AN EXAMPLE OF THE RATES A CUSTOMER PURCHASING OPP WOULD HAVE BEEN ASSESSED SINCE 1999?

A. Yes. I will use a DS3 with an Electrical Interface purchased under a 60-

month OPP for this example. I will also use Zone 1 in this example since Chicago, the largest city in the Chicago LATA, is primarily Zone 1.

If the customer signed up for a 60-month OPP for a DS3 with an Electrical Interface in June, 2000 the monthly rate for the LDC in Zone 1 was $1,000[2]. Over the course of the next 60- months, the customer would never be charged more than $1,000 per month for this LDC. Hence, the customer knows it need not budget more than a maximum of $60,000 for this LDC over the cumulative 60-months.

However, the $1,000 rate was reduced to $960 per month. By purchasing the DS3 with an Electrical Interface under an OPP, the customer's cost for the remaining months will have decreased by $40 per month; saving the customer an additional $1,440 over and above the savings of the OPP rates, which are substantially below the highest rates allowed for this LDC.

Q. YOUR EXAMPLE INDICATES THE OPP RATES HAVE BEEN DECREASING. WOULD THE CHARGE FOR EARLY TERMINATION ALSO HAVE DECREASED?

A. The charges for early termination decrease each time the associated rates decrease.

Q. ARE THE CHARGES FOR EARLY TERMINATION APPLICABLE TO ALL CUSTOMERS PURCHASING SPECIAL ACCESS OPPs?

A. Yes. The charges for early termination of an OPP are applicable to any customer that discontinues service purchases under an OPP prior to the expiration of the term. In fact, in 2001 Ameritech assessed charges for early termination to IXCs, CLECs and end user customers.

Q. HOW ARE THE CHARGES FOR EARLY TERMINATION OF AN OPP CALCULATED?

A. There are two scenarios. One is if the customer terminates in the first 11 months and the second is if the customer terminates after the 11th month.

In the first case, if we assume that a customer with a 36-month OPP should choose to discontinue service in the fifth month of the OPP, the charge for early termination would be calculated as follows:

(.40 x 12 Month OPP rate x [12 – 5 Months]) +

([12 Month OPP rate – 36 Month OPP rate] x 5 Months)

In addition, the customer will be charged the difference between the nonrecurring charge associated with the minimum period for the service and the nonrecurring charge the customer actually paid.

[2] Tariff FCC No. 2, 3rd Revised Page 449.8, filed under Transmittal No. 1252, effective November 18,

If we insert the DS1 Local Distribution Channel ("LDC") rate from Tariff FCC No. 2, 34th Revised Page 411, which was effective November 18, 2000 and assume only one LDC was purchased in Zone 1, the charge for early termination associated with the monthly recurring charge would be:

(.40 x $196 x [12 – 5 Months]) + ([$196 - $103] x 5 Months)

= $1,013.80

The charge for early termination with the nonrecurring charge would be calculated as follows:

(Monthly nonrecurring charges – 36 Month OPP nonrecurring charges)

In this case, the Customer Connection Charge is the only known charge for this LDC because the Administrative Charge is assessed per order, of which this LDC might be only one of several items on the order, and the Design Central Office Connection Charge is only assessed if engineering design and/or connection or changes at Ameritech Illinois's central office is required at the time of the initial order. To simplify, neither of these charges is considered. The termination liability associated with the Customer Connection Charge would be:

($450 - $0) = $450

When added to the total paid for the five months of service ($103 x 5), the customer would pay a total of $1,978.80 for the service plus $50 in nonrecurring charges for a total of $2,028.28. However, had the customer chosen the month-to-month option instead, the customer would have paid $1,275.00 plus $800 in

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2000.

nonrecurring charges for a total of $2,075.00. Thus, even with the charge for early termination, the total amount paid by the customer is less than the amount that the customer would have paid if it taken service on a month-to-month basis, rather than agreeing to take service for 36 months and then abrogating that agreement.

If the customer disconnects after 11 months, the customer will be charged the dollar difference between the current OPP rate for the term that could have been completed during the time the service was actually in service and the customer's current OPP rate for each month the service was provided. (See Tariff FCC No. 2, Section 7.4.10(C), 4th Revised Page 309.1.1.1.) In addition, the customer will be charged the difference between the nonrecurring charge for the OPP term that could have been completed and the nonrecurring charge the customer actually paid. For example, if the customer originally signed up for a 60 month OPP for one DS1 LDC in Zone 1 but terminated service after 24 months, the termination liability would be calculated as follows, again assuming the LDC rates that became effective in Tariff FCC No. 2 on November 18, 2000 continue to be in effect. First, the term that would have been completed is 24 months. The customer was billed $93 for the 24 months under the 60-month OPP but would have been billed $152 if the OPP had only been a 24-month OPP. The customer actually paid $2,232 for the 24 months, but by canceling the OPP in the 24th month, the customer would pay an additional $1,416 for early termination for a total of $3,648 for the 24 months of service, which is exactly what the customer would have paid had the customer agreed to a 24-month OPP originally.

The calculation of the nonrecurring charges associated with early termination again omitting the per order Administrative Charge and the Design and Central Office Connection Charge, would be $255. This is the difference between the 60-month Customer Connection Charge and the 36-month Customer Connection Charge. Again, the customer would pay the same as if he had opted into a 36-month OPP initially.

Q. WOULD IT BE ACCURATE TO SAY THAT BY CALCULATING THE CHARGES FOR EARLY TERMINATION IN THIS MANNER, GLOBALCOM WOULD HAVE BEEN CHARGED THE SAME AMOUNT EVERY OTHER CUSTOMER WHO SIGNED UP FOR A 24-MONTH OPP WOULD HAVE BEEN CHARGED?

A. Yes, Globalcom would have been charged exactly the same as every other customer under a 24-month OPP.

Q. IS THE ABOVE DESCRIPTION OF THE TERMINATION CHARGE PROVISION ALSO APPLICABLE TO INTRASTATE SPECIAL ACCESS SERVICE?

A. Yes. As I stated previously, the intrastate tariff mirrors the interstate tariff.

If customers are not able to depend upon interpreting the same words in the same manner, it would make it extremely difficult for customers to determine the best service choice for their situation. In addition, depending on the interpretation, it could increase incentives for tariff arbitrage and an incorrect reporting of the percentage of interstate and intrastate traffic.

Q. ON PAGE 9, LINES 9 THROUGH10, MR. WINCE STATES HE "TREATED AMERITECH, AND [HE] EXPECTED AMERITECH WOULD TREAT [HIM], LIKE ANY OTHER VENDOR RELATIONSHIP". FROM A TARIFF PERSPECTIVE, IS AMERITECH TREATING GLOBALCOM LIKE ANY OTHER CUSTOMER THAT CHOOSES TO PURCHASE SPECIAL ACCESS SERVICE UNDER AN OPP AND TERMINATES SERVICE BEFORE THE END OF THE OPP PERIOD?

A. Yes, Ameritech has assessed and would assess Special Access charges for early termination of Special Access OPPs to Globalcom consistent with Ameritech's assessment to other customers.

Q. ARE CHARGES FOR EARLY TERMINATION OF SPECIAL ACCESS OPP SERVICES EVER WAIVED?

A. Yes, but only under limited circumstances specified in the tariff. As stated in Section 7.4.10(D), termination charges will not be assessed if the customer converts the existing Special Access service to a new Special Access OPP of the same length or longer or converts the existing Special Access service to a higher speed Special Access Service, such as DS1 to DS3, or coverts the existing Special Access service to the same speed or higher speed Special Access SONET Xpress service.

In addition, the charges for early termination are waived if the customer moves one LDC to another location in the LATA, keeps the OPP in force and does not have a lapse in service. However, in that case nonrecurring charges are applicable for the move.

Charges for early termination are also waived if the customer purchases diversity, moves a DS1 to that arrangement but does not change customer premises or serving wire center.

Further, if the customer converts certain Special Access services from OPP to the Discount Commitment Program ("DCP"), charges for early termination are waived provided there is no lapse in service.

Q. DOES THE CONVERSION OF SPECIAL ACCESS SERVICE TO AN EEL QUALIFY FOR ANY OF THESE WAIVERS?

A. No., A waiver of termination charges can only be allowed if the waiver is specifically authorized under the tariff. The tariff does not provide for an exception to the termination charge requirements for early termination of Special Access service due to the conversion to a UNE combination. Moreover, in all of the situations for which a waiver of termination charges is allowed by the tariff, there is no termination of Special Access service. Rather, there is a simply a change in the conditions or plan under which the customer is purchasing Special Access service out of the tariff. By comparison, when a customer converts a Special Access service to EELs (a combination of UNEs), prior to the expiration of the customer's OPP term agreement, the result is an abrogation by the customer of its agreement to purchase Special Access service out of the tariff for a specified term.

Q. ARE CHARGES FOR TERMINATION OF A SPECIAL ACCESS DS3 OR SPECIAL ACCESS OC-3 WAIVED UNDER THE SAME CIRCUMSTANCES AS A SPECIAL ACCESS DS1?

A. Yes, if no move is involved. If the customer is simply converting to a new Special Access OPP for the Special Access DS3 or Special Access OC-3 or is converting to a higher speed Special Access service or is converting to Special Access SONET Xpress then no charge for early termination is assessed per the tariff rules and regulations. However, on moves of Special Access DS3s, there are different requirements to obtain waiver of the early termination charges which are further refined by whether the service has an optical interface or an electrical interface.

Q. ARE THE CHARGES FOR EARLY TERMINATION OF SPECIAL ACCESS SERVICE WAIVED IF THE CUSTOMER IS DOING NOTHING MORE THAN CHANGING THE JURISDICTION FROM INTERSTATE TO INTRASTATE OR VISA VERSA?

A. No. It is considered a termination of service, because the customer would be terminating its agreement to take service out of the interstate tariff and requesting the establishment of service out of the intrastate tariff.

Q. HAS THE ASSESSMENT OF EARLY TERMINATION CHARGES BEEN UPHELD BY REGULATORY BODIES?

A. Yes. On September 2, 1993 the FCC issued its Second Memorandum Opinion and Order on Reconsideration (*2nd MO&O on Recon),* In the Matter of Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141. One of the issues that was reconsidered was termination liabilities. The FCC determined it was appropriate to charge termination liabilities under fresh look. The only limitation was the termination liability could not exceed the "difference between (1) the amount the customer has already paid and (2) any additional charges that the customer would have paid for service if the customer had originally taken a shorter term arrangement corresponding to the term actually used"[3]. The termination charges at issue in this case meet this criteria.

The FCC has also expressly stated that a CLEC's ability to request the conversion of an existing Special Access circuit to an existing combination of UNE loop and dedicated transport does not in any way relieve the CLEC of its pre-existing, separate legal duty to pay any applicable early-termination charges under special access tariffs. UNE Remand Order, ¶ 481, n. 985 ("We note, however, that any substitution of unbundled network elements for special access would require the requesting carrier to pay any appropriate termination penalties required under volume or term contracts"). The FCC reaffirmed ILECs' rights to recover these charges in several recent Orders. In Bell South Georgia and Louisiana 271 Order, CC Docket 02-35, Memorandum Opinion and Order, FCC 02-147, ¶ 200 (rel. May 15, 2002), the FCC stated: "We reject comments by US LEC/XO that the disallowance of co-mingled traffic, early termination penalties, and surcharges are obstacles to their ability to convert special access circuits to EELs" (emphasis added). In Verizon Pennsylvania 271 Order, CC Docket 01-138, Memorandum Opinion and Order, FCC 01-269 at ¶ 75 (rel. Sept. 19, 2001) the FCC stated that "our current rules do not require incumbent LECs to waive tariffed termination fees for carriers requesting special access circuit conversion."

[3] See *2nd MO&O on Recon*, paragraph 40.

On January 9, 2002, the FCC released its Memorandum Opinion and Order, In the Matter of Net2000 Communications, Inc., Complainant, v. Verizon – Washington, DC, Inc., Verizon – Maryland, Inc. and Verizon – Virginia, Inc., Defendants *(Net2000 MO&O)*, File No. EB-00-018. In the *Net2000 MO&O,* the FCC recognized that circuits purchased by Net2000 had "been purchased pursuant to the term plan provisions in Verizon's tariffs [and that] the conversions would result in one-time termination liability"[4]. The FCC recognized the assessment of the termination liability was in accordance with the tariff provisions under which Net2000 had purchased service.

In addition, the Commission found in the Level 3 Arbitration Decision, 00-0322, the "FCC and various state commissions have held consistently that CLECs should remain responsible for termination fees" and there is no need to review those decisions. Level 3, like Globalcom, argued that a conversion of special access circuits to EELs does not constitute a "termination" of special access service.

Q. MS. POZZI ASSERTS THAT HER ANALYSIS SHOWS THAT "AMERITECH ILLINOIS OVERCHARGES GLOBALCOM IN THE AMOUNT OF $********** WHICH IS THE DIFFERENCE BETWEEN SPECIAL ACCESS RATES AND EEL RATES FOR ALL CIRCUITS**

[4] *Net2000 MO&O*, paragraph 35, footnote 40 and footnote 68.

BOTH TO THE DATE EACH WAS ORDERED THROUGH MAY 15, 2002." MS. POZZI FURTHER ASSERTS THE PORTION OF THOSE OVERCHARGES INCURRED SINCE DECEMBER 27, 2001 TOTALS $482,903.36. DO YOU HAVE ANY COMMENTS IN RESPONSE TO THESE ASSERTIONS?

A. Yes. Ms. Pozzi's analysis is flawed in several respects. First, Ms. Pozzi's analysis assumes that Ameritech has had an obligation to provide Globalcom with new EELs for the entire period of time from October,1999 (which is the date of the earliest Special Access circuit included in her analysis) to the present. Ameritech disagrees with Ms. Pozzi's assumption for reasons discussed in Ameritech's Motion to Dismiss and Reply in Support of Motion to Dismiss.

Second, Globalcom has had the right to convert qualifying Special Access circuits to EELs in accordance with the FCC's UNE Remand Order, subject to the local use requirements spelled out in the Supplemental Order and Supplemental Order Clarification. Globalcom, however, made no request for conversions until December 27, 2001, when it requested the conversion of five circuits. If Globalcom had requested the conversion of qualifying Special Access circuits prior to December 27, 2001, the difference between the amount of Special Access charges and UNE rates reflected in Ms. Pozzi's calculation of "overcharges" would be less. Ms. Pozzi's calculation of termination charges would also be less. On the other hand, to the extent the Special Access circuits in question do not qualify for conversion to EELs under the local use test, there is no basis for Ms. Pozzi's assumption that Globalcom would have been entitled to pay TELRIC rates for those Special Access circuits. In this regard, it should be noted that Globalcom continued to purchase Special Access circuits under long term OPP term agreements of up to 60 months during the entire period in question.

Third, Ms. Pozzi's calculations of the alleged overcharges for both time periods do not accurately reflect the tariffed rates that Globalcom is charged for Special Access service. In response to a discovery request, Ms. Pozzi identified the Special Access rates which she used in her calculations. The rates she used are incorrect and are higher than the rates charged to Globalcom for Special Access service under the Special Access tariff. As a result, Ms. Pozzi's calculations overstate the amounts billed for Special Access service.

Finally, Ms. Pozzi does not take into consideration the non-recurring charges that Globalcom would have been charged for the installation of new EELs. As I previously discussed, when Globalcom purchases DS3 circuits under a 60-month OPP plan, the non-recurring charges are zero rated. Ms. Pozzi's calculation of the difference between the amounts which it paid for DS3 circuits purchased under the 60-month OPP term and the amounts it claims it should have paid for those circuits as EELs is overstated for that reason, as well as the other reasons that I have discussed.

Q. DO YOU HAVE ANY OTHER COMMENTS ON MS. POZZI'S ANALYSIS?

A. Yes. Ms. Pozzi uses April 30, 2002 as the cancellation date in her calculation (Globalcom's response to AIT DR 35) instead of May 15, 2002, as indicated in her testimony. Even if that were the only issue, I would have to disagree with Ms. Pozzi's conclusion.

Ms. Pozzi's calculation of the charges for early termination appear to would be overstated if the service was not discontinued until May 15th instead of April 30th. In addition, unless Ms. Pozzi combined multiple rate elements in some cases but not others, the DS1 and DS3 Special Access rates in effect on April 30, 2000 in both Tariff FCC No. 2 and ILL CC No. 21 do not match Ms. Pozzi's input values on every rate element.

Q. PLEASE EXPLAIN.

A. First, Ms. Pozzi used a cancellation date of April 30, 2002. On the very first zone 1 DS3 circuit in Ms. Pozzi's workpapers it is indicated that the circuit had an establishment date of May 1, 2000. If the circuit was established on May 1, 2000, as indicated by Ms. Pozzi, then April 30, 2002, the last day before May 1st, would be exactly 24 months. The calculation of the charge for early termination should utilize 24 months instead of 23.97 months, as indicated by Ms. Pozzi. Unfortunately, this was not the only issue on this particular circuit.

In addition, to the issues identified with the calculation, the DS1 per mile rates for the 36-month OPP and 60-month OPP utilized by Ms. Pozzi do not match the tariff pages that were in effect on April 30, 2002, Ms. Pozzi's workpapers' cancellation date nor would they match a May 15, 2002 cancellation date mentioned in Ms. Pozzi's testimony. The DS3 Interconnection Multiplexing for the 60-month OPP does not match the tariff pages that were in effect on April 30, 2002 on four of the zones. Neither the DS3 Channel Mileage Termination or the DS3 per mile rates for the 36, 48, and 60-month OPPs match the tariff pages that were in effect on April 30, 2002.

Q. DID YOU IDENTIFY ANY OTHER CONCERNS SPECIFIC TO THE SPECIAL ACCESS DS3 CIRCUITS?

A. Yes. My understanding is before Globalcom could convert each circuit to an EEL Globalcom would have to identify the option that enabled the circuit to qualify for the conversion. I reviewed Ms. Pozzi's workpapers which were received in response to Ameritech's DR 35. These workpapers underlie Ms. Pozzi's estimate of the charge for early termination of the Special Access OPP service. Although Ms. Pozzi states she worked with Mr. Wurster to determine the eligible circuits[5], when viewed in conjunction with Mr. Wurster's statement that Globalcom "will not undertake the expense of reconfiguring circuits so that all of the circuits on a large number of its DS3s will contain circuits...that comply with the FCC Local Use Test"[6], it appears Ms. Pozzi's list of DS3 circuits are overstated. In any event, as Ms. Fuentes Niziolek explains, Ameritech is not obligated to convert a Special Access circuit to an EEL unless and until the carrier actually makes a request and certifies that each specific circuit for which conversion is requested meets the local use test and the qualifications for conversion established by the FCC. Until Ameritech receives a proper request, it is not in a position to agree to the accuracy of Ms. Pozzi's assertion that all of the circuits used in her analysis qualify for conversion.

Q. MR. STARKEY AND MR. WINCE SUGGEST THAT THE RATES CHARGED TO GLOBALCOM FOR SPECIAL ACCESS HAVE BEEN EXCESSIVE. DO YOU AGREE?

A. No. Globalcom does not allege, or present evidence to support an allegation, that it has been billed anything other than lawful, tariffed Special Access rates.

Q. HOW ARE TARIFFED SPECIAL ACCESS RATES UNDER F.C.C. NO. 2 SET?

A. Interstate Special Access rates are governed by price cap regulation. The

[5] *See Confidential Verified Statement of Megan Pozzi, page 5, lines 6 through 19.*

cost support that is required to justify the rates currently in place in Tariff FCC No. 2 is the Tariff Review Plan ("TRP"). TRPs are filed with each tariff transmittal that impacts the rates charged for price cap services.

Q. UNDER PRICE CAPS, HOW ARE AMERITECH'S PRICES REGULATED?

A. In accordance with Part 61 of the Code of Federal Regulations ("CFR"), price cap revenues, which are based on the rates charged, are allowed to be adjusted based on the change in indices. The indices are adjusted annually based on inflation and productivity. In addition, indices are adjusted annually and at other times based on exogenous cost changes. The starting prices for Special Access services in the first price cap filing were the rates set on July 1, 1990 adjusted to reflect a decrease in the allowable rate of return. The FCC found the July 1, 1990 rates, as adjusted, a reasonable starting point for price caps because the "rates were the product of an annual access review process, and represented the latest set of rates shaped by an ongoing rate of return review process"[7].

Q. ARE THERE ANY OTHER RULES THAT ARE DESIGNED TO LIMIT THE INCREASES AMERITECH MAY MAKE IN SPECIAL ACCESS PRICES?

A. Yes, there are. Part 61.46(e)(1)(x) limits increases in the Total High

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[6] See Verified Statement of Roger Wurster, page 6, lines 12 through 15.

Capacity service category, which includes DS1, DS3 and optical services, to five percent annually. Parts 61.46(e)(1)(xi) and (xii) limit increases in the DS1 and DS3 sub-service categories, respectively, to five percent annually. Lastly, Part 61.46(f) limits increases within each zone to annual increases of fifteen percent.

Q. ARE THESE CUMULATIVE INCREASES?

A. No, it is more like a hierarchy. The DS1 sub-service category contains DS1 for Zones 1 through 5, as well as any DS1 service that is non-zoned. Each zone is limited to a fifteen percent annual increase. However, sub-service category is limited to a five percent annual increase. Therefore, if one were to increase every zoned price by the maximum fifteen percent then the total of the sub-service category would most likely be an increase greater than five percent. If we were to assume that zone prices were adjusted in a manner that resulted in a five percent increase for the DS1 sub-service category, we then have to look at the Total High Capacity service category to ensure it has not exceeded the five percent annual increase.

Q. ARE THERE ANY OTHER TARIFF SECTIONS THAT PROVIDE FOR THE REGULATION OF SPECIAL ACCESS SERVICES?

A. Yes. Section 21 provides for Special Access services in metropolitan statistical areas ("MSAs") for which Ameritech has shown competition exists.

[7] Order on Reconsideration, In the Matter of Policy and Rules Concerning Rates for Dominant Carrier, CC

Q. ARE ANY OF THE SERVICES GLOBALCOM PURCHASED COVERED BY SECTION 21?

A. As of June 18, 2002, the Chicago MSA has met the competitive requirements delineated by the FCC. This includes DS1, DS3 and OC-3 which were mentioned in Globalcom's testimony.

Q. WHAT WAS AMERITECH REQUIRED TO SHOW IN ORDER TO OBTAIN THIS RELIEF FOR THE CHICAGO MSA?

A. Under the FCC's rules, Phase II relief is granted after it is shown that competitors have 1) collocated in at least fifty percent of SBC-Ameritech's wire centers within the MSA or 2) collocated in wire centers accounting for sixty-five % of SBC-Ameritech's revenues from these services within an MSA. The FCC found that these thresholds were exceeded in the Chicago MSA, demonstrating that Ameritech faces a significant amount of competition from alternative providers of Special Access services. As the FCC discussed in its Order granting Ameritech pricing flexibility, "to obtain Phase II relief a price cap LEC must meet triggers designed to demonstrate that competition for the services at issue within the MSA is sufficient to preclude the incumbent from exploiting any individual market power over a sustained period." <u>In the Matter of Petitions for Pricing Flexibility for Special Access and Dedicated Transport Services for Ameritech</u>

Docket No. 87-313, released April 17, 1991, paragraph 152.

Operating Companies, et al., CCB/CPD No. 01-32, Memorandum Opinion and Order, DA 02-823, p. 4 (rel. April 11, 2002).

Q. WHAT DOES PRICING FLEXIBILITY ALLOW AMERITECH TO DO WITH SPECIAL ACCESS PRICES IN THE CHICAGO MSA?

A. Those services in the Chicago MSA that were granted pricing flexibility are removed from price cap regulation, as of June 18, 2002, and the pricing of these services is now governed by market forces.

Q. WILL MOVEMENT OF SPECIAL ACCESS SERVICES FROM SECTION 7 TO SECTION 21 CHANGE THE REQUIREMENTS OF THE OPPs ASSOCIATED WITH THESE SERVICES?

A. No. Those customers currently under an OPP will continue to pay no more than the OPP rate that was in effect at the time the OPP agreement was initiated.

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. Globalcom 's assertion that the charges associated with early termination of an OPP agreement is nothing more than a penalty is without merit. The assessment of termination liabilities for the early discontinuance of Special Access service is a long accepted obligation that has been supported in other actions by the FCC and various state commissions, including the ICC. More importantly, an ICC decision to change the rules over which the ICC has jurisdiction, i.e., intrastate, will result in customer confusion and uncertainty.

Likewise, Globalcom's argument that it is not terminating the circuit, therefore, there should be no charge for early termination is without merit. The service Globalcom agreed to purchase was Special Access service. Ameritech has complied and is complying with all appropriate regulations as necessary. Globalcom, however, benefits by retaining the difference in funds it would have paid had it chosen a shorter OPP and by not having had to pay nonrecurring charges on 60-month OPPs. And any decision to waive charges for early termination of Globalcom's contracted agreement will result in all customers pursuing whatever means necessary to avoid charges that have been found to be lawful.

Globalcom's assertions regarding the cost of Special Access service relative to the price and its effort to make Special Access fit the rules designed for other services, is a blatant disregard for the rules that this Commission and the FCC have spent considerable amounts of time and energy developing.

Lastly, Globalcom's statements that Ameritech's position on termination liabilities has impeded its ability to compete is completely misleading. Alternative providers serve both residential and business customers and compete vigorously for that business. The fact that Ameritech continues to lose significant access lines to these competitors demonstrates that the aforementioned terms do in fact NOT hinder competitiveness in the state of Illinois.

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

EXHIBIT 1

SUMMARY OF EMPLOYMENT AND EDUCATION BACKGROUND

Q. PLEASE OUTLINE YOUR WORK EXPERIENCE?

A. In 1979 I accepted the position Staff Assistant-Cost Studies at Southwestern Bell Telephone Company ("SWBT") and in 1981 the position of Staff Manager-Cost Studies where I assisted in the preparation of cost studies for special assembly requests and vintage PBX systems, respectively.

In 1983 I was appointed Manager-Rates and was responsible for developing SWBT's initial local transport rates filed with the Federal Communications Commission ("FCC").

In 1985 I was appointed Manager-Separations where I was responsible for traffic studies for the state of Missouri.

In 1988 I was appointed Manager-Rates and was responsible for developing the local switching rates for SWBT's annual rate of return filing with the FCC. Subsequent to the introduction of price cap regulation I assumed responsibility for development of cost and rate support for new switched access services, including Line Information Database ("LIDB"), System Signaling 7 ("SS7"), 800 Database and Open Network Architecture ("ONA").

In 1995 I was appointed to the position of Area Manager-Product Management where I was responsible for Feature Group A ("FGA") services.

In 1996 I was employed by GTE Long Distance ("GTE LD") where I was responsible for developing and conducting variance analysis on GTE LD's cost budget regarding access services. In addition, I supported contract negotiations with potential vendors supplying underlying service and was a product manager for DS0 dedicated services.

In 1997 I was again employed by SWBT as Area Manager-Rates responsible for the federal price cap filings for SWBT, Pacific Bell Telephone Company, Nevada Bell Telephone Company and for federal switched access tariff filings. In September 1999 responsibility for the federal switched access tariffs was moved to another position and I accepted the additional responsibility of federal price cap filings for The Southern New England Telephone Company and the Ameritech Operating Companies.

In October 2000 I was appointed to my current position, Area Manager-State Access Issues, and became responsible for monitoring state access issues and witnessing for Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas and Wisconsin.

Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. I received a Bachelor of Science Degree in Accounting from Maryville University, St. Louis, MO in December 1994. I completed the Uniform Certified Public Accounting (CPA) examination in May 1995. I am currently a member of the Missouri Society of Certified Public Accountants. Additionally, I have attended numerous training courses and seminars since my employment at in the areas of accounting, cost development, computer software, separations and federal regulations.

ATTORNEY – CLIENT PRIVILEGED -- PREPARED AT REQUEST OF ATTORNEY – ILLINOIS GLOBALCOM COMPLAINT
Draft #1 Direct Testimony of S. Douglas

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